UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/686,572	10/10/2000	Thomas James Dubil	US000183	4775

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EXAMINER
TRAN, MYLINH T

ART UNIT	PAPER NUMBER
2179	

DATE MAILED: 10/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/686,572	DUBIL ET AL.
	Examiner	**Art Unit**	
	Mylinh Tran	2179	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>04 August 2006</u>.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *2-6,8 and 13-18* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *2-6, 8, 13-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some *   c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Applicant's Amendment filed 08/04/06 has been entered and carefully

considered. Claims 13-15 and 17-18 have been amended. However, the

limitations of the amended claims have not been found to be patentable over

prior art of record, therefore, claims 2-6, 8 and 13-18 remain rejected under the

same ground of rejection as set forth in the Office Action mailed (05/04/06).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set
forth in section 102 of this title, if the differences between the subject matter sought to be patented
and the prior art are such that the subject matter as a whole would have been obvious at the time the
invention was made to a person having ordinary skill in the art to which said subject matter pertains.
Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering

patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that

the subject matter of the various claims was commonly owned at the time any

inventions covered therein were made absent any evidence to the contrary.

Applicant is advised of the obligation under 37 CFR 1.56 to point out the

inventor and invention dates of each claim that was not commonly owned at the

time a later invention was made in order for the examiner to consider the

applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior

art under 35 U.S.C. 103(a).

Claims 2-3, 13-17 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Yang [US. 6,133,847] in view of Humpleman et al. [US.

6,546,419].

As per independent claim 13, Yang teaches a method comprising:

providing over a bidirectional data network (fig. 5) providing a control code (col.

7, line 52) to a home network comprising a control-device (remote control

device 100 of fig. 5), the control code being representative of a command for

controlling the state of an apparatus (col. 3, lines 44-46);

the control code not being usable by an apparatus until the control code is

converted into the command and transmitted to the apparatus by an IR or RF

signal independent of the bi-directional data network over which the control

code was provided, wherein the apparatus is not pre-configured to deliver or

cause delivery of its respective control code to the control device (col. 7, lines

51-54);

enabling the home network to convert the control code into an associated

command (col. 3, lines 44-46); and

enabling the control device to send the command to the apparatus via IR or RF

transmission (col. 8. lines 17-25).

Yang does not disclose the control code comprising data in a mark-up language

format. Humpleman discloses that in col. 9, line 53 - col. 10, line I 5. It would

have been obvious to an artisan at the time of the invention to use the teaching

from Humpleman of including a mark-up language format in the control code in

Yang's system since it would allow the system to easily integrate into the

Internet/Web network.

As per claim 2, which is dependent on claim 13, Yang teaches the data being

provided via a data network (fig. 5, col. 7, lines 48-57).

As per claim 3, which is dependent on claim 2, Yang teaches:

enabling a user to specify to a sewer on the network an apparatus for being

controlled by the control device; and enabling the sewer to identity a

corresponding control code for being provided as the data in the mark-up

language format (col. 7, line 54 col. 8, line 25).

As per independent claim 14, it is rejected under the same scope as claim 13.

As per independent claim 15. Yang teaches a data base, comprising:

control codes (col. 7, line 52) for controlling apparatus through remote control

devices (remote control device 100 of fig. 5), the control codes representative of

commands suitable for transmission (col. 3, lines 44-46) by the remote control

devices to the apparatuses over an IR or RF network (col. 8, lines 17-25), the

database being in communication over a bi-

directional data network with a plurality home network systems each of which

comprises at least a remote control device (fig. 5), the control codes being

deliverable to the remote control device independent of the controlled

apparatuses (col. 7, lines 51-54).

Yang does not disclose the control codes being formatted in a mark-up

language. Humpleman discloses that in col. 9, line 53 - col. 10, line 15. It would

have been obvious to an artisan at the time of the invention to use the teaching

from Humpleman of including a mark-up language format in the control code in

Yang's system since it would allow the system to easily integrate into

Internet/Web network.

As per independent claim 16, Yang teaches a control code stored on a machine

readable medium for control of CE equipment (col. 7, lines 51-54), the control

code representing an IR or RF signal for transmission by a remote control

device to the CE equipment (œ1. 8. lines 17-25).

Yang does not disclose the control code being supplied in an XM1 format.

Humpleman discloses that in col. 9, line 53 –col. 10, line 15. It would have been

obvious to an artisan at the time of the invention to use the teaching from

Humpleman of including a XML format in the control code in Yang's system

since it would allow the system to easily integrate into Internet/Web network.

As per independent claim 17, Yang teaches a method comprising:

enabling each of a plurality of users to specify to a server, over a bi-directional

data network an apparatus for being controlled by the control device of a user;

and enabling the server to identify a control code, the control code being

representative of a control code for an apparatus (col. 7, line 54 - col. 8, line

25); and enabling the server to communicate over the bi-directional data

network with a home network that comprises a user's control device for delivery

of the control code to the control device (col. 7, lines 51-54), wherein the control

code is not directly usable by the specified apparatus until conversion by the

home network into a command that be sent by the control device independent

of the bidirectional network (col. 8. lines 17-25).

Yang does not disclose the control code comprising data in a mark-up language

format. Humpleman discloses that in (col. 9, line 53 -col.10, line 15. It would

have been obvious to an artisan at the time of the invention to use the teaching

from Humpleman of including a mark-up language format in the control code in

Yang's system since it would allow the system to easily integrate the

Internet/Web network.

Claims 18 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Yang in view of Humpleman and further in view of Jackson [US

5,963.264].

As per independent claim 18, Yang teaches a method, comprising:

providing control codes to a home network comprising a control device for

installation on the control device, and one set of control codes representing IR

or RF signals (col. 3, lines 44-46) for transmission by a remote control device to

the CE equipment to control the state of the equipment (col. 8, lines 17.25), the

control codes being provide from a database over a bi-directional data network

to the home network (col. 7, line 51-54); the control codes being provided from

a database over a bidirectional data network to the home network, wherein the

equipment is not pre-configured to deliver or cause delivery of its respective

control code to the control device (column 6, lines 7-35).

Yang does not disclose data representative of a control code provided in a

mark-up language format. Humpleman discloses that in col. 9, line 53- col. 10,

line 15. It would have been obvious to an artisan at the time of the invention to

use the teaching from Humpleman of providing data representative of a control

code in a mark-up format in Yang's system since it would allow the system to

easily integrate into the Internet/Web network.

The modified Yang does not disclose another set of control code is part of an

EPG or ECG. Jackson discloses that in col. 2, lines 47-50. It would have been

obvious to an artisan at the time of the invention to use the teaching from

Jackson of having the control code as part of an EPG or ECG in modified

Yang's system since it would allow the control device to control an apparatus

and to navigate through its EPG using the same remote control device.

As per claim 4, which is dependent on claim 13, modified Yang does not

disclose the control code is part of an EPG or ECG. Jackson discloses that in

col. 2, lines 47-50. It would have been obvious to an artisan at the time of the

invention to use the teaching from Jackson of having the control code as part of

an EPG or ECG since it would allow the control device to control an apparatus

and to navigate through its EPG using the same remote control device.

Claims 5, 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable

over

Yang in view of Humpleman and further in view of Mitani [US 6,466,233].

As per claims 5 and 6, which are dependent on claims 13 and 5, respectively,

modified Yang does not teach supplying a GUI element for use on the control

device, the GUI element being supplied as further data in the mark-up language

format and the GUI element comprises a graphical representation of a remote

control device. Mitani teaches supplying a GUI element for use on the control

device, the GUI element being supplied as further data in the mark-up language

format (fig. 2, col. 4, lines 48-60) and the GUI element comprises a graphical

representation of a remote control device (fig. 9, col. 6, lines 66-67 through col.

7, lines. 1- 19). It would have been obvious to an artisan at the time of the

invention to use the teaching from Mitani of supplying a GUI element for use on

the control device, the GUI element being supplied as further data in the mark-

up language format and the GUI element comprises a graphical representation

of a remote control device in modified Yang's system since it would allow the

use of a remote control device without a need for a separate monitor display device.

As per claim 8, it is rejected under the same rationale as claim 5.

Response to Arguments

Applicant's arguments filed 08/09/06 have been fully considered but they are not persuasive.

Applicants argued the following:

(a) Yang fails to recite the claim limitation of a control code in a mark-up language that is converted to an IF or RF signal.

(b) Yang fails to recite the claim limitation of the deliverability of the converted code to an apparatus independent of a bi-directional network from which the control code is obtained.

(c) The rejection is traversed because there is no teaching, suggestion, or motivation found in the references for their combination (between Yang and Humpleman) assuming arguendo that all limitations were present.

(d) Yang fails to teach "Apparatus is not pre-configured to deliver or cause delivery of its respective control code to the control device".

The Examiner disagrees for the following reason:

(a) Independent claims 13-18 do not specifically recite the claim limitation of "a

control code in a mark-up language that is converted to an IR or RF signal".

Therefore, the claim language of claims 13-18 still can be interpreted that the

control code comprises data in mark-up language (or XML) format which is

taught by Humpleman at col. 9, line 53 - col. 10, line 15, and also comprises IR

or RF command for controlling the state of an apparatus, which is taught by

Yang at col. 3, lines 44-46.

(b) According to Yang, when the programming code is transmitted from the

remote control device 100 to the apparatus 510, 520, 530, and 540 of fig. 5, it is

not constrained or controlled by the bi-directional network 150 (col. 8, 18-25),

therefore, it is clearly that the deliverability of the converted code to an

apparatus is independent of a bi-directional network from which the control

code is obtained.

(c) In response to applicant's argument that there is no suggestion to combine

the references, the examiner recognizes that obviousness can only be

established by combining or modifying the teachings of the prior art to produce

the claimed invention where there is some teaching, suggestion, or motivation

to do so found either in the references themselves or in the knowledge

generally available to one of ordinary skill in the alt. See In re Fine, 837 F.2d

1071, 5 USPQM 1596 (Fed. Cir. 1988) and In re Jones, 958 F.2d 347, 21

USPQ2d 1941 (Fed. Cir. 1992). In this case, both Yang and Humpleman teach

a control system used to send control and command data from a

control device to control a plurality of electronic appliances. Therefore, It would

have been obvious to an artisan at the time of the invention to use the teaching

from Humpleman of including a mark-up language format in the control code in

Yang's system since it would allow the system to easily integrate into the

Internet network.

(d) Applicant's attention is directed to the cited passage at col. 7, lines 51-57

"The programming code could be loaded onto the network for each appliance

and then be downloaded by the network to the remote control device". There is

no configuration to these appliance devices at all.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension

of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire

THREE MONTHS from the mailing date of this action. In the event a first reply

is filed within TWO MONTHS of the mailing date of this final action and the

advisory action is not mailed until after the end of the THREE-MONTH

shortened statutory period, then the shortened statutory period will expire on

the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In

no event, however, will the statutory period for reply expire later than SIX

MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mylinh Tran. The examiner can normally be reached on Mon - Thu from 7:00AM to 3:00PM at 571-272-4141.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo, can be reached at 571-272-4847.

The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

571-273-8300

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mylinh Tran

Art Unit 2179

BA HUYNH
PRIMARY EXAMINER